

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO. 1:15-CR-00228
	)	
Plaintiff,	)	
	)	JUDGE DONALD C. NUGENT
v.	)	
	)	
ROBERT TOTH,	)	<u>DEFENDANT'S PROPOSED</u>
	)	<u>JURY INSTRUCTIONS</u>
Defendant.	)	

Now comes the Defendant, Robert Toth, through undersigned counsel, and respectfully submits the following proposed jury instructions to the Court, and requests that the Court charge the jury with the said instructions, consistent with the evidence that is expected to be adduced at trial.

**RIGHT TO BE FREE FROM UNREASONABLE SEIZURE**

The Fourth Amendment to the U.S. Constitution states that the people shall be free from unreasonable searches and seizures.

Authority:

Fourth Amendment to U.S. Constitution

### **OBJECTIVELY REASONABLE USE OF FORCE**

In order to be in compliance with the Fourth Amendment, the force that is used in order to effect a particular seizure must be objectively reasonable. In determining whether the force used is objectively reasonable, the question is must be considered in light of all of the facts and circumstances present.

The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must allow for the fact that police officer's are often forced to make split-second judgments, in circumstances that are tense, uncertain and rapidly evolving, about the amount of force that is necessary in a particular situation, without regard to underlying intent or motivation.

Authority:

*Graham v. Connor*, 490 U.S. 386 (1989)

Respectfully submitted,

s/ Dominic J. Vitantonio

Dominic J. Vitantonio [0052058]

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CERTIFICATE OF SERVICE

A copy of the foregoing *Defendant's Proposed Jury Instructions* was filed electronically.

Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

Parties may access this filing through the Court's system.

s/ Dominic J. Vitantonio

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